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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/605,739	10/22/2003	James Frederick Schade		2738

7590 05/04/2004
James Frederick Schade
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Ramona, CA 92065-4741

EXAMINER

HAYES, BRET C

ART UNIT	PAPER NUMBER
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3644

DATE MAILED: 05/04/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application N	Applicant(s)	
	10/605,739	SCHADE, JAMES FREDERICK	
	Examiner	Art Unit	
	Bret C Hayes	3644	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-11 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

1. An examination of this application reveals that applicant is unfamiliar with patent prosecution procedure. While an inventor may prosecute the application, lack of skill in this field usually acts as a liability in affording the maximum protection for the invention disclosed.

Applicant is advised to secure the services of a registered patent attorney or agent to prosecute the application, since the value of a patent is largely dependent upon skilled preparation and prosecution. The Office cannot aid in selecting an attorney or agent.

Applicant is advised of the availability of the publication "Attorneys and Agents Registered to Practice Before the U.S. Patent and Trademark Office." This publication is for sale by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter, which the applicant regards as his invention.

3. Claims 1 – 11 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

4. Claim 1 recites the limitations "said roof" in line 5, "the same" in line 9, "the exterior" in line 10, "the trapped animal" in line 12, "the other end" in lines 13 and 14, "the rotation" in line 15, "said set position" in line 17, "the energy" (2X) in lines 19 and 26 and 27, "said small animal" (3X) in lines 20, 25 and 27, "the spring tension" in line 22, and "this energy" in lines 27 and 28. There is insufficient antecedent basis for these limitations in the claim. Further, claim 1

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recites "its" in lines 18 and 20, which should be replaced with a positive recitation of the structural limitation. Even further, claim 1 recites "a cocked/tripped position" in lines 8 and 9, which unclear since "cocked" and "tripped" are not normally considered to be synonyms, so it would appear that the yoke could not clearly be in both a cocked position and a tripped position simultaneously.

5. Claim 2 recites the limitation "the bottom face" in line 2. There is insufficient antecedent basis for this limitation in the claim.

6. Claim 3 recites "The short dead end tunnel of claim 2", which is improper and should be replaced with --The...trap of claim 2, wherein the...tunnel further includes...--. Further, claim 3 recites the limitations "the front opening" in line 3, "the other side" in line 4, and "said small animal" (2X) in line 6. There is insufficient antecedent basis for these limitations in the claim. Even further, claim 3 recites "its" in line 6 and "it" in line 7, which should be replaced as indicated above with regard to claim 1.

7. Claim 4 recites the limitations "said spring tension" (2X) in lines 2 and 5, "the position" (3X) in lines 2 and 3, and "the difference" in line 3. There is insufficient antecedent basis for these limitations in the claim.

8. Claim 5 recites the limitation "said cocked/tripped position" in lines 2 and 3. See claim 1 regarding this limitation.

9. Claim 6 recites the limitations "said roof" in lines 2 and 3, "the front end" in line 3, "the rear end" in line 4, "said device lever" in line 4, "said front end" (2X) in lines 5 and 7, and "said rear end" in line 6. There is insufficient antecedent basis for these limitations in the claim.

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10. Claim 7 recites the limitations "the position" in line 2, "said release lever" in line 2, "said retained position" in lines 2 and 3, and "said released position" in line 3. There is insufficient antecedent basis for these limitations in the claim.

11. Claim 8 recites the limitations "said means of detecting" in lines 1 and 2, "the position" (2X) in lines 2 and 4, and "said small animal" (2X) in lines 2, 4 and 5. There is insufficient antecedent basis for these limitations in the claim.

12. Claim 9 recites the limitation "the circuitry" in line 3. There is insufficient antecedent basis for this limitation in the claim. Further, claim 9 recites "a means to disable" in lines 1 and 2, which is improper and should be replaced with --a means for disabling-- or --a disabling means--.

13. Claim 10 recites "a means of sending" in lines 1 and 2, which was indefinitely recited previously in the base claim and should be replaced with a definite recitation, such as, --the means of sending-- or --said means of sending--.

14. Claim 11 recites the limitations "the position" and "said release lever" both in line 4. There is insufficient antecedent basis for these limitations in the claim. Further, claim 11 recites "a means of sensing" in lines 1 and 2, which was indefinitely recited previously in the base claim and should be replaced with a definite recitation, such as, --the means of sensing-- or --said means of sensing--.

15. Also, claims 2 and 4 – 11 recite "The electronically controlled small animal trap of claim 1", which is improper and should be replaced with --The electronically controlled trap of claim 1--, since that is what is recited in line 1 of claim 1.

Allowable Subject Matter

16. Claim 1 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action.

17. Claims 2 – 11 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

18. The following is a statement of reasons for the indication of allowable subject matter: the prior art of record neither discloses nor fairly teaches the claimed trap combination including an enclosure; a pivoting bail; a cocking yoke; a release device; a means for moving the release device; a means of changing spring tension; a means for disabling the trap; a means for sensing 1) when a small animal is in position and 2) that the trap has been tripped; and a means for sending a signal indicating that the trap has been tripped.

19. Examiner does not include a draft of a suggested allowable claim because the errors are simple and plain enough for Applicant to correct independently. Should Applicant feel some assistance would be beneficial, Applicant should please feel free to contact examiner as indicated below in the Conclusion section of this action.

Conclusion

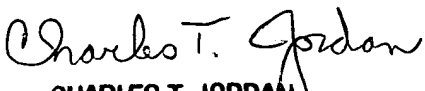
Any inquiry concerning this communication should be directed to Bret Hayes at telephone number (703) 306 – 0553. The examiner can normally be reached Monday through Friday from 5:30 am to 3:00 pm, Eastern Standard Time.

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If attempts to contact the examiner by telephone are unsuccessful, the examiner's supervisor, Charles Jordan, can be reached at (703) 306 – 4159. The fax number is (703) 872 – 9306.

bh

4/28/04


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